

UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF NEW YORK

CALENTURE, LLC, and
MARK RUBENSTEIN,

Plaintiffs,

v.

EOS ENERGY ENTERPRISES, INC.
(f/k/a B. Riley Principal Merger Corp. II)

Defendant.

:

: Civil Action No. 21-cv-1416-JPO

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: **NOTICE OF MOTION TO
DISMISS THE COMPLAINT**

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PLEASE TAKE NOTICE that upon the accompanying Memorandum of Law, the Declaration of Donald H. Chase, and the exhibits annexed thereto, and upon all of the prior pleadings and proceedings had herein, Defendant EOS ENERGY ENTERPRISES, INC., by its attorneys, Morrison Cohen LLP, shall move before this Court, at the United States Courthouse located at 500 Pearl Street, New York, New York, for an Order: (a) dismissing the Complaint filed in the above-captioned action with prejudice pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure on the grounds that it fails to state a claim; (b) awarding Defendant its attorneys' fees and costs incurred in this proceeding; and (c) awarding such other and further relief as the Court deems just and proper.

PLEASE TAKE FURTHER NOTICE that pursuant to Stipulation and Order, opposition papers, if any, shall be served and filed no later than May 26, 2021, and reply papers, if any,

shall be served and filed no later than June 9, 2021.

Dated: April 26, 2021

MORRISON COHEN LLP

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